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NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

EMILY J., Petitioner, v. THE SUPERIOR COURT OF THE CITY AND COUNTY OF SAN FRANCISCO, Respondent; SAN FRANCISCO HUMAN SERVICES AGENCY et al., Real Parties in Interest.	A156906 (City & County of San Francisco Super. Ct. No. JD163274)

Emily J. (Mother) petitions under rule 8.452 of the California Rules of Court[1] to vacate the juvenile court's order setting a hearing under section 366.26 of the Welfare and Institutions Code[2] to select a permanent plan for her daughter (Minor). Mother asserts the record fails to support the court's finding that returning Minor to her posed a substantial risk of detriment to the child's safety, protection, or physical or emotional well-being. Mother also contends that the record fails to show the San Francisco Human Services Agency (Agency) offered her reasonable reunification services and that the evidence supported a substantial likelihood her daughter could be returned to her if

1 All further rule references are to the California Rules of Court.

2 All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

services were extended. Finally, she claims the unusual procedural circumstances of this case constitute exceptional circumstances permitting the court to extend services beyond the 24-month statutory period. We issued an order to show cause and a temporary stay of the pending section 366.26 hearing. For the reasons discussed below, we now deny Mother's petition on its merits.

FACTUAL AND PROCEDURAL BACKGROUND

A. First Dependency Case

At the time of her birth, both Minor and Mother tested positive for methamphetamines. Minor was removed from her parents' custody due to their substance abuse and Mother's need for mental health care. Both parents received family reunification services. Thereafter, reunification services were terminated as to Minor's father, but Minor was placed back in Mother's care in September 2015. During this prior case, a psychological evaluation of Mother diagnosed her with bipolar I disorder and histrionic personality disorder. After 12 months of family maintenance services, this prior case was dismissed in September 2016.

B. Operative Petition, Jurisdiction, and Disposition

When Minor was two years old, the Agency filed the operative dependency petition in this case in September 2016, just two days after the prior case was dismissed. Pursuant to section 300, subdivision (b), the petition alleged Minor had suffered or there was a substantial risk she would suffer serious harm or illness due to Mother's inability to adequately supervise or protect her, and due to Mother's inability to provide her with regular care due to mental illness, developmental disability, or substance abuse. Specifically, the petition alleged Mother was found under the influence of alcohol and/or drugs at a library with Minor within hours of the prior case's dismissal. The petition additionally alleged, pursuant to section 300, subdivision (g), that Minor's father was unable to care for Minor and had failed to reunify with her during the prior case. The court detained Minor on September 9, 2016.

At the jurisdiction and disposition hearing in late-October 2016, the parents submitted to revised allegations. The juvenile court then declared Minor a dependent,

ordered her removed from Mother's custody, and ordered reunification services and supervised visitation for Mother. Mother's reunification plan required, in part, that she: complete a residential drug treatment program; undergo individual therapy addressing her substance abuse and mental health and their impact on her parenting ability; undergo a medication evaluation and follow recommended treatment; remain clean and sober; and attend dyadic/family therapy if recommended.

C. Six-Month Status Review Report and Hearing

The Agency's initial six-month status review report recommended that services be continued and that Minor remain out of Mother's custody until Mother could demonstrate significant progress as to both her substance abuse and mental health issues. The report indicated Mother was residing at Casa Aviva (a residential substance abuse program) and abstaining from substance use. Mother, however, appeared to be struggling with her mental health issues.

In late-April 2017, the Agency filed an addendum report, still recommending services for six more months. This report noted Mother's bipolar disorder remained untreated, and the Agency wanted Mother to address the matter and how it affected her parenting ability. The report stated Mother had been seeing a therapist, but did so only once since mid-January 2017 when the assigned social worker received the case. The report observed that Mother appeared to be in "strong denial" concerning her mental health, which was "the single most important issue to be addressed . . . that impacts the safety of her child."

A few weeks later, the Agency filed a second addendum report recommending reunification services be terminated and a section 366.26 hearing set. The Agency believed Minor would be in danger if reunified because, although Mother complied with her substance abuse treatment, "the larger concern is [M]other not addressing her mental health issues or behaviors in order to mitigate future safety risks."

A contested six-month review hearing was held over several days in June and July 2017. The juvenile court found the Agency had not made reasonable efforts to prevent or eliminate the need for Minor's removal from the home and ordered continued

reunification services, including Mother's participation in a new psychological evaluation.

D. 12-Month Status Review Report and Hearing

Before the 12-month review hearing, the Agency filed a status review report recommending termination of reunification services and the setting of a section 366.26 hearing. The Agency reported Mother completed a psychological evaluation in September and October 2017 and was diagnosed with (i) stimulant, alcohol and cannabis use disorder, in sustained remission in a controlled environment, and (ii) "[o]ther specified personality disorder, mixed personality features with borderline and histrionic traits." Mother also completed the residential substance abuse treatment program at Casa Aviva and had begun living at Ashbury House, a residential mental health treatment program. Matters of concern included a report by Ashbury House staff that Mother demonstrated no insight into her mental health issues. Additionally, one of Mother's therapists reported Mother was in denial regarding the effect of her addiction on Minor's well-being and safety. Mother's therapist and a protective services worker also described Mother's difficulty in attuning herself to her daughter's needs rather than "pushing her own agenda." In short, given Mother's parenting issues, her lack of insight and lack of support outside of residential treatment programs, and the 12 months of reunification services she already received, the Agency believed that Mother still had not demonstrated an ability to care for Minor on her own and that it was not probable an additional six months of services would alter that.

At the contested 12-month review hearing held over several days between January and March 2018, the juvenile court heard testimony from Agency protective services workers and supervisors, Minor's grandmother, a licensed psychologist who evaluated Mother, Mother's program counselors and therapists, and the program director from Ashbury House. The hearing ended, however, after the parties reached an agreement to terminate further reunification services and to set the matter for a permanency planning hearing pursuant to section 366.26. Mother agreed she would submit to guardianship at the section 366.26 hearing if she did not file a section 388 petition, or if she filed an

unsuccessful section 388 petition. The agreement contemplated that Mother would retain the ability to file a section 388 petition any time before Minor turned eighteen.

After ensuring that Mother was entering the agreement knowingly and voluntarily, the juvenile court terminated reunification services and set a section 366.26 hearing for a date in September 2018.

E. Proceedings After the March 2018 Settlement Agreement

In June 2018, counsel for Minor filed a petition pursuant to section 388 asking the juvenile court to reduce Minor's visits from her Sonoma County home to Mother in San Francisco due to the stress the trips put on Minor. Mother filed her own section 388 petition in July 2018, asking for Minor's return to her at Ashbury House under a family maintenance plan, or for reunification services with a transition plan plus increased visits. Hearings for both section 388 petitions were held over several days in August 2018. While those proceedings were ongoing, the Agency filed notice of a section 366.26 hearing recommending termination of Mother's parental rights and adoption, rather than guardianship as previously agreed. Mother objected, urging enforcement of the agreement.

In mid-November 2018, the juvenile court denied Mother's request to enforce the agreement, and allowed her to withdraw her submission to the termination of services. After indicating it would complete the "12-month" hearing, the court stated the parties could submit additional evidence in writing, limited to the date of the 12-month hearing. Mother objected, arguing unsuccessfully for the court's permission to present evidence beyond the date of the 12-month hearing.

In a written order filed in March 2019, the juvenile court asserted it considered the exhibits and transcripts from the 12-month hearing dates and the parties' written closing arguments. The court found that Minor's return to Mother would pose a substantial risk of detriment to Minor and a substantial danger to Minor's physical health. The court also determined there was no substantial probability Minor would be returned in the maximum time allowed and found clear and convincing evidence that the Agency had

provided Mother reasonable services. The court terminated reunification services and set the matter for a section 366.26 hearing.

Mother then filed this writ petition and requested a stay of the pending section 366.26 hearing. This court issued the requested stay pending further court order.

DISCUSSION

A. Substantial Risk of Detriment

The juvenile court found that a return to Mother would create a substantial risk of detriment to Minor's safety, protection, or physical or emotional well-being. While acknowledging that Mother had made substantial progress in addressing her substance abuse issues, the court determined she made only moderate progress in addressing her mental health issues, which "impacts and severely impairs her parenting capabilities and her ability to safely parent her daughter without intensive supervision." Mother challenges the detriment finding, arguing that she participated in a number of mental health services offered to her, and that she made progress, developed insight, and was not in denial about her mental health needs. She also contends the record failed to establish that her mental health diagnosis impacted or severely impaired her parenting ability. We disagree and conclude substantial evidence supported the juvenile court's findings.

i. Governing Law and Standard of Review

In this case, by the time the "12-month" review hearing concluded by settlement agreement, 18 months had elapsed from the time Minor was initially removed from Mother's custody. As such, the hearing became an 18-month hearing. (*Denny H. v. Superior Court* (2005) 131 Cal.App.4th 1501, 1508–1509 (*Denny H.*), superseded by statute on other grounds as stated in *Earl L. v. Superior Court* (2011) 199 Cal.App.4th 1490, 1504.)

Section 366.22 provides at an 18-month hearing, "the court shall order the return of the child to the physical custody of his or her parent . . . unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of

establishing that detriment." (§ 366.22, subd. (a)(1).) "[Detriment] cannot mean merely that the parent in question is less than ideal, did not benefit from the reunification services as much as we might have hoped, or seems less capable than an available foster parent or other family member.' [Citation.] Rather, the risk of detriment must be *substantial*, such that returning a child to parental custody represents some danger to the child's physical or emotional well-being." (*In re Yvonne W.* (2008) 165 Cal.App.4th 1394, 1400.) Detriment can be shown in various ways, such as: "instability in terms of management of a home [citation]; . . . limited awareness by a parent of the emotional and physical needs of a child [citation]; failure of a minor to have lived with the natural parent for long periods of time [citation]; and the manner in which the parent has conducted . . . herself in relation to a minor in the past." (*Constance K. v. Superior Court* (1998) 61 Cal.App.4th 689, 704–705.)

We review a finding of detriment for substantial evidence. (*Angela S. v. Superior Court* (1995) 36 Cal.App.4th 758, 763.) When undertaking such a review, we must determine whether there is *any* substantial evidence to support the detriment finding. In doing so, " 'we have no power to judge . . . the effect or value of the evidence, to weigh the evidence, to consider the credibility of the witnesses, or to resolve conflicts in the evidence or in the reasonable inferences that may be drawn therefrom.' " (*James B. v. Superior Court* (1995) 35 Cal.App.4th 1014, 1021.)

ii. Analysis

The evidence in the record clearly establishes that Mother has significant mental health issues. Mother was diagnosed with bipolar and histrionic personality disorder in 2015. A psychologist re-evaluated and diagnosed her in 2017 with (i) stimulant (amphetamine type), alcohol, and cannabis use disorder in sustained remission in a controlled environment, and (ii) "other specified personality disorder, mixed personality features with borderline and histrionic traits."

There was ample evidence that instability and impulsivity are symptoms of Mother's personality disorder. The clinical psychologist who evaluated Mother in 2017 testified regarding her observation of a connection between Mother's personality disorder

and instability in areas such as employment, housing, and relationships, and her opinion that such instability can negatively impact a child. An Agency protective services supervisor similarly testified, based on her experience and training, that people with this type of personality disorder tend to have unstable relationships, housing, and employment and that impulsivity is a concern.

Likewise, substantial evidence showed that Mother is indeed unstable and impulsive. The psychologist who evaluated Mother in 2017 testified that Mother's life is marked by chronic instability in the areas of employment, housing, and relationships. In addition, the psychologist stated Mother does not have a well-defined coping style, likely conducts herself unpredictably, and may tend to ignore or minimize circumstances that should cause concern. Mother's estranged mother (Grandmother) similarly testified that Mother is attracted to living life "on the edge" and is drawn to "high excitement," "high impulses," "overspending," and being "hypersexual." Grandmother opined Mother has a hard time distinguishing between what is appropriate for herself and for Minor.

The record also includes evidence that Mother's mental health issues—including her instability and impulsivity—pose a substantial risk of detriment to Minor. As one social worker related, this second dependency case began mere hours after the first dependency case ended, with Mother being intoxicated to the point of incapacitation in public with two-year-old Minor. Furthermore, while Mother was in residential treatment programs, she took or posted inappropriate photos and internet posts, some of which included Minor. One photo—which showed a topless "selfie" of Mother with Minor during an overnight visit at Casa Aviva—was so concerning that Minor's counsel sought emergency suspension of overnight visits. Despite the impact that photo had, Mother later posted a picture of Minor on Facebook in inappropriate clothes with a caption referring to the child as Mother's "Barbie Daughter Hott." According to one Agency protective services supervisor, that photo put Minor at risk of exploitation and sexual molestation. Grandmother, who acted as Minor's caretaker since essentially the beginning of the second dependency case and as her de facto parent, also reported that

after Minor returned from visiting Mother, she not only acted wild and used foul language, but engaged in sexualized behavior.

Moreover, in November 2017, at a hospital the day after Minor had surgery, Mother became angry when Minor stayed by Grandmother's side for comfort rather than go to her. Mother angrily scolded Minor and threatened to reprimand her, then very loudly told Grandmother that she was acting like the child came out of Grandmother's vagina, which prompted nurses to come to the hospital room. Mother also cursed loudly and vulgarly at Grandmother in front of Minor—again, Grandmother has been this child's caretaker since she was two years old—resulting in security being called. Later, during a follow-up appointment about care for Minor, Mother was "not paying much attention to what [the doctor] was saying," but rather "jumping around the room with her phone trying to get pictures of everybody" and "primping in the mirror with different expressions."

In addition to the foregoing, there is also substantial evidence that Mother lacks insight into her mental health issues, impairing her ability to address them. The Agency's assigned protective services worker was told by three providers that Mother lacked insight or was in denial regarding her mental health issues. This is not to say there is no evidence of Mother's insight at all, but we do not weigh the evidence.

Viewed in the light most favorable to the juvenile court's ruling, the record is replete with evidence that the return of Minor to Mother would create a substantial risk of detriment to the child's safety, and physical and emotional well-being. (§ 366.22, subd. (a).) The court's conclusion regarding the risk posed by Mother's mental health issues and lack of insight was not speculative, nor was it presumed from the fact of mental illness. Rather, it was supported by ample evidence of Mother's diagnosis and symptoms, history and ongoing behavior, and lack of insight. Even though Mother completed portions of her case plan and made a certain measure of progress, she was not entitled to regain custody regardless of the substantial risk of detriment to Minor. (*In re Joseph B.* (1996) 42 Cal.App.4th 890, 901.)

B. Reasonable Services

The juvenile court found clear and convincing evidence that the Agency provided Mother reasonable services. Mother disagrees, arguing the services offered were unreasonable because: (1) the Agency failed to timely provide her dialectical behavior therapy (DBT), a type of therapy she started only in late-October 2017; (2) the Agency's social workers failed to contact Mother regularly and support her in her reunification efforts; and (3) the Agency prejudged the outcome of the 12-month review hearing, ensuring that mother's efforts would not succeed."

At the 18-month review hearing, the juvenile court is required to determine whether reasonable services were offered or provided to the parent. (§ 366.22, subd. (a)(3).) In this regard, "the record should show that the supervising agency identified the problems leading to the loss of custody, offered services designed to remedy those problems, maintained *reasonable* contact with the parents during the course of the service plan, and made *reasonable* efforts to assist the parents in areas where compliance proved difficult (such as helping to provide transportation and offering more intensive rehabilitation services where others have failed)." (*In re Riva M.* (1991) 235 Cal.App.3d 403, 414.) We review a court's reasonable-services finding for substantial evidence. (*In re Misako R.* (1991) 2 Cal.App.4th 538, 545 (*Misako R.*).)

Mother's first contention regarding the Agency's failure to timely offer DBT casts no doubt on the juvenile court's reasonable-services finding. As the record demonstrates, Mother was given a plethora of mental health services from the beginning of this case. The Agency referred Mother to a therapist during the first dependency case whom she continued seeing during her second case until late September 2017. After the six-month hearing in mid-2017, the Agency referred Mother to Ashbury House, a residential mental health treatment program where she began living in September 2017. The Agency also referred Mother for psychological evaluations in 2015 and 2017, a medication evaluation in 2017, and mother-daughter "dyadic therapy" with U.C.S.F.'s Child Trauma Research Project in late October 2017. Additionally, Ashbury House staff referred Mother to

individual therapy in October 2017, and also referred her to Lee Woodward, where she engaged in DBT and substance abuse therapy in late-October 2017.

True, the psychologist who diagnosed Mother in 2017 testified the most effective treatment for Mother's personality disorder diagnosis is DBT. Case law, however, does not require that the "best" services be provided: "In almost all cases it will be true that more services could have been provided more frequently and that the services provided were imperfect. The standard is not whether the services provided were the best that might be provided in an ideal world, but whether the services were reasonable under the circumstances." (*Misako R.*, *supra*, 2 Cal.App.4th at p. 547.) Here, the second psychological evaluation was only completed around the time Mother started DBT in late-October 2017, and the psychologist testified there were many treatments for the diagnosis. While acknowledging that DBT is the treatment of choice for borderline personality disorder and can also be beneficial for histrionic personality disorder, the psychologist also testified that individual therapy—such as the therapy provided to Mother here—can effectively treat histrionic personality disorder.

In light of the foregoing, we reject Mother's suggestion that the Agency did not provide reasonable services because staff at Ashbury House, rather than the Agency, referred Mother to the place where she eventually started DBT. We also reject Mother's suggestion that the Agency should have known to refer her for DBT from the outset of the case.

Additionally, we are not persuaded by Mother's second contention concerning the alleged failure of the Agency's social workers to contact Mother regularly and support her in her efforts to reunify. Although Mother claims that her contacts with the Agency were not meaningful and that certain visits did not happen because the Agency had no documentation of them, such claims contradict the evidence in the record reflecting that Mother had regular face-to-face and other types of contact with Agency protective services workers throughout 2017 and the testimony of at least one protective services supervisor who said she took "myriad" phone calls from Mother during this case.

Mother's claims call for us to weigh evidence and make credibility determinations, which we are not permitted to do.

Finally, we reject Mother's third contention that the Agency prejudged the outcome of the 12-month review hearing and thus ensured that her efforts would not succeed. Even though the Agency appeared to have a tentative idea of what its recommendation in the case would be after periodic reviews, the record reflects that the Agency nonetheless offered Mother services and indicated its willingness to alter its recommendation if the circumstances were to change. There is no evidence suggesting that Agency caseworkers did anything to sabotage Mother's reunification.

In sum, substantial evidence supports the juvenile court's finding that reasonable services were provided.

C. Extension Request

The juvenile court terminated reunification services, explicitly finding no substantial probability that Minor would be returned to Mother within the maximum time allowed. Mother contends the juvenile court erred by failing to grant her an additional six months of services pursuant to section 366.21, subdivision (g)(1), which allows a court to continue services at the 12-month hearing if "there is a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time." As discussed, however, the hearing was actually an 18-month hearing due to the time that elapsed from the point Minor was removed from Mother's custody. (*Denny H.*, *supra*, 131 Cal.App.4th at pp. 1508–1509.) As such, by its terms, section 366.21, subdivision (g)(1), does not apply. (§ 366.21, subd. (g)(1).)

Anticipating we would deem the hearing an 18-month hearing, Mother alternatively argues the statutory exception to setting a section 366.26 hearing in section 366.22, subdivision (b) applies because there was a substantial probability Minor would be returned to her.

Section 366.22, subdivision (a)(3), states: "Unless the conditions in subdivision (b) are met and the child is not returned to a parent or legal guardian at the

permanency review hearing, the court shall order that a hearing be held pursuant to Section 366.26." Section 366.22, subdivision (b), provides: "If the child is not returned to a parent . . . at the permanency review hearing and the court determines by clear and convincing evidence that the best interests of the child would be met by the provision of additional reunification services to a parent . . . who is making significant and consistent progress in a court-ordered residential substance abuse treatment program, . . . the court may continue the case for up to six months for a subsequent permanency review hearing, provided that the hearing shall occur within 24 months of the date the child was originally taken from the physical custody of his or her parent . . . . The court shall continue the case only if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent . . . and safely maintained in the home within the extended period of time or that reasonable services have not been provided to the parent." (Italics added.) To find a "substantial probability that the child will be returned to the physical custody of his or her parent . . . and safely maintained in the home within the extended period of time," the court must find the parent "has consistently and regularly contacted and visited with the child," "has made significant and consistent progress in the prior 18 months in resolving problems that led to the child's removal from the home," and "has demonstrated the capacity and ability both to complete the objectives of . . . her substance abuse treatment plan as evidenced by reports from a substance abuse provider . . . and to provide for the child's safety, protection, physical and emotional well-being, and special needs." (§ 366.22, subd. (b)(1)–(3).) We review an order terminating reunification services to determine if it is supported by substantial evidence. (*Kevin R. v. Superior Court* (2010) 191 Cal.App.4th 676, 688.)

Initially, we note Mother fails to show section 366.22, subdivision (b), applies here, and it is questionable that it does. Mother does not argue she was in a court-ordered residential "substance abuse" treatment program at the time of the hearing. She does not address the circumstance that she already completed her residential substance abuse treatment program at Casa Aviva in September 2017, then began living at Ashbury House, described by its own director as "a residential treatment facility for mothers with

mental illness reunifying with their children." Mother also fails to address the fact that subdivision (b) of section 366.22 requires a continued hearing to occur "within 24 months of the date the child was originally taken from the physical custody of his or her parent." Here, the court issued its decision on the 18-month hearing in March 2019, well past 24 months from the date of Minor's initial detention on September 9, 2016.

In any event, even if the juvenile court did have the power to order additional services under section 366.22, subdivision (b), we find substantial evidence supports the juvenile court's denial of further reunification services. As discussed, the evidence supports Mother received reasonable services aimed at addressing her mental health problems and yet, despite having significant mental health diagnoses dating back to 2015, Mother had not adequately addressed or even developed insight into her mental health issues by the time of the hearing. This reasonably supports the conclusion that Mother had not made "significant and consistent" progress in addressing her mental health issues, which the record supports was an underlying problem that led to Minor's removal from Mother's custody. (§ 366.22, subd. (b)(2).) Further, the evidence that supports the court's detriment finding discussed above also substantially supports Mother had not demonstrated she had the ability to provide for Minor's safety, and physical and emotional well-being. (*Id.*, subd. (b)(3)(A).)

For the foregoing reasons, we reject this argument.

D. Exceptional Circumstances

Finally, Mother argues the unusual procedural circumstances of this case (i.e., the fact that the 18-month hearing ended with a settlement agreement that later was not enforced, resulting in a belated decision) constituted exceptional circumstances that required the juvenile court to exercise its discretion pursuant to section 352 to continue the 366.22 hearing and to grant additional services in the interim. Mother cites to *In re*

Elizabeth R. (1995) 35 Cal.App.4th 1774 (*Elizabeth R.*) and *Mark N. v. Superior Court* (1998) 60 Cal.App.4th 996 (*Mark N.*)[3] in support.

Mother does not assert or provide record citations showing she asked for a continuance pursuant to section 352 on this ground below. (§ 352, subd. (a)(1) ["Upon request of counsel for the parent, guardian, minor, or petitioner, the court may continue any hearing under this chapter beyond the time limit within which the hearing is otherwise required to be held"].) And Mother's written closing argument clearly failed to raise this argument.

Moreover, Mother's authorities are inapposite. *Elizabeth R.* and *Mark N.* are cases in which exceptional circumstances obliged the juvenile courts to consider continuing the 18-month hearings on their own motion. (*Elizabeth R.*, *supra*, 35 Cal.App.4th at pp. 1797–1799 [parent was hospitalized for much of the reunification period due to mental illness and made substantial efforts to comply with the reunification plan]; *Mark N.*, *supra*, 60 Cal.App.4th at p. 1017 [no reasonable reunification services had ever been offered or provided to the parent, and there was no finding that reunification services would be detrimental to the minor under § 361.5, subd. (e)(1)].) Because the facts of this case present no parallel to those in *Elizabeth R.* and *Mark N.*, the juvenile court was not bound to continue the 366.22 hearing per section 352 and to grant additional services in the interim.

DISPOSITION

The petition for extraordinary writ is denied on the merits, and the stay of the section 366.26 hearing is dissolved. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) The decision is final in this court immediately. (Rules 8.452(i) & 8.490(b)(2)(A).)

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[3] *Mark N.* was superseded by statute on other grounds as stated in *Earl L. v. Superior Court*, *supra*, 199 Cal.App.4th at page 1504.

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Fujisaki, J.

WE CONCUR:

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Siggins, P. J.

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Petrou, J.

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